

## REMARKS

Claims 1-9 and 11-18 are pending.

Features of Claims 1 and 8 were switched. Claim 1 was also amended to recite a feature from Claim 10. New Claims 15-18 were added. A hinge coupling feature was moved from Claim 1 to new dependent Claims 15 and 16 and further described in these claims as supported by Figs. 1 and 2. Independent Claim 17 recites a hinge that runs transversely along the strip first portion forming an axis for permitting the receptacle to pivot about the axis to an underside of the strip. Claim 18 is supported as is Claim 15. It is respectfully submitted no new matter is presented by these amendments.

### I. Claim Objections

Claims 12 and 13 are objected to under 37 CFR 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. These claims were amended to depend from Claim 11 to moot this rejection.

### II. Claim Rejections - 35 USC 102

Claims 1 and 2 were rejected under 35 USC 102(b) in view of US D361,475 to Strong. The amendment of Claim 1 to include a Claim 8 feature overcomes this rejection. Furthermore, Claim 2 and new Claim 17 recite the receptacle abuts an underside of the strip in a second position to further distinguish over the reference.

### III. 35 USC 102/103(e)

#### A. Strong in view of US Patent No. 6,371,428 to Zorich et al.

Claims 3 and 4 are rejected under 35 USC 103(a) as obvious over Strong in view of US Patent No. 6,371,428 to Zorich et al. This rejection is respectfully traversed.

As stated above, Claim 2 recites the receptacle abuts an underside of the strip in a second

position to further distinguish over the reference. This also distinguishes over the cited combination of references.

B. Strong in view of US Patent No. 5,199,678 to Luebke

Claims 5 and 11 are rejected under 35 USC 103(a) as being unpatentable over Strong in view of US Patent No. 5,199,678 to Luebke.

These claims recite the flange consists essentially of a single layer, and optionally a tab. This avoids the hook and loop fastener material 32 of the binding strap 32 of Lubke. The claims were also amended to further specify the flange location to distinguish over the location of the flange 26 of Luebke.

C. Strong in view of Luebke and Zorich et al.

Claims 6 and 7 are rejected as being unpatentable over Strong in view of Luebke and Zorich et al. It is improper to combine these references. The present Claims 6 and 7 recite a tab perpendicular to the flange. Such a tab would interfere with the hook and loop fastener of Luebke.

D. Strong in view of US Patent No. 5,106,046 to Rowles et al.

Claims 8, 9, 12 and 13 are rejected as being unpatentable over Strong in view of US Patent No. 5,106,046 to Rowles et al. It is respectfully submitted it is improper to combine these references. The Claim 8 feature was moved to Claim 1.

Strong locates its hinge essentially in the middle of the arm of its drink holder (Strong is a design patent. Thus, its drawings are to scale.). This central location of the hinge of Strong would interfere with the telescoping second horizontal member 24 of Rowles et al. which slides almost the length of the first horizontal member 22.

Moreover, the presently claimed combination of the U-shaped back end, telescoping

strip and lowered receptacle advantageously work together to permit secure positioning of the apparatus on a bench.

E. Strong in view of US Patent No. 6,010,104 to Hanson et al.

Claim 10 is rejected as being unpatentable over Strong in view of US Patent No. 6,010,104 to Hanson et al. Claim 10 has been canceled to moot this rejection. Its feature of a U-shaped end was added to Claim 1. As explained above, the presently claimed combination of the U-shaped back end, telescoping strip and lowered receptacle advantageously work together to permit secure positioning of the apparatus on a bench.

F. Strong in view of Hanson et al. and Rowles et al.

Claim 14 is rejected as being unpatentable over Strong in view of Hanson et al. and Rowles et al.

As explained above regarding the rejection of Claim 12 it is improper to combine Strong and Rowles et al. Hanson et al. does not make up for this deficiency.

IV. Conclusion

In view of the above it is respectfully submitted that all objections and rejections are overcome. Thus, a Notice of Allowance is respectfully requested.

Respectfully submitted,

Date: Oct. 28, 2004

By: Anthony P. Venturino  
Anthony P. Venturino  
Registration No. 31,674

APV/bms  
ATTORNEY DOCKET NO. 4961-00102-1

STEVENS, DAVIS, MILLER & MOSHER, L.L.P.  
1615 L STREET, N.W., SUITE 850  
WASHINGTON, D.C. 20036  
TEL. 202-785-0100 / FAX. 202-408-5200